



General Assembly

January Session, 2003

Raised Bill No. 6681

LCO No. 4487

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING THE PROTECTION OF WATERSHED LANDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 25-33k of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 No source of water supply shall be abandoned by a water company
4 without a permit from the Commissioner of Public Health. In his
5 decision the commissioner shall consider the water supply needs of the
6 water company and shall consult with the Commissioner of
7 Environmental Protection, the Secretary of the Office of Policy and
8 Management and the Department of Public Utility Control. The
9 Commissioner of Public Health shall grant a permit upon a finding
10 that the source shall not be needed by such water company for present
11 or future water supply and, in the case of a water company required to
12 file a water supply plan under section 25-32d, that such abandonment
13 is consistent with a water supply plan filed and approved pursuant to
14 said section. Any permit granted by the Commissioner of Public
15 Health pursuant to this section shall require as a condition of such
16 permit that a conservation easement be granted by such water
17 company in favor of the state on such abandoned property. Such

18 easement shall be a permanent conservation easement on the land to
 19 preserve the land in perpetuity predominantly in its natural scenic and
 20 open condition for the protection of natural resources and public water
 21 supplies while allowing for recreation consistent with such protection.
 22 Preservation in perpetuity shall not include permission for the land to
 23 be developed for any commercial, residential or industrial uses, nor
 24 shall it include permission for recreational purposes requiring intense
 25 development, including, but not limited to, golf courses, driving
 26 ranges, tennis courts, ballfields, swimming pools and uses by
 27 motorized vehicles other than vehicles needed by water companies to
 28 carry out their purposes, provided trails or pathways for pedestrians,
 29 motorized wheelchairs or nonmotorized vehicles shall not be
 30 considered intense development. No permit shall be granted if the
 31 [commissioner] Commissioner of Public Health determines that the
 32 source would be necessary for water supply by the company in an
 33 emergency or the proposed abandonment would impair the ability of
 34 the company to provide a pure, adequate and reliable water supply for
 35 present and projected future customers. Pursuant to any permit
 36 granted by the Commissioner of Public Health, the water rights to the
 37 public use of such source shall revert to the state upon abandonment
 38 by the water company and shall be held in trust for the citizens of the
 39 state provided during any emergency declared by the Governor such
 40 waters may used for potable or nonpotable drinking water supplies.
 41 Any water rights that revert to the state pursuant to this section shall
 42 be available for water supply planning purposes pursuant to a water
 43 supply plan approved by the Department of Public Health. As used in
 44 this section, a future source of water supply shall be considered to be
 45 any source of water supply necessary to serve areas reasonably
 46 expected to require service by the water company for a period of not
 47 more than fifty years after the date of the application for a permit
 48 under this section.

49 Sec. 2. Section 16-43 of the general statutes is amended by adding
 50 subsection (f) as follows (*Effective October 1, 2003*):

51 (NEW) (f) Notwithstanding any provision of the general statutes, as
52 a condition of approval by the Department of Public Utility Control of
53 any acquisition of a water company that owns more than one hundred
54 acres of class I or class II water company lands, such acquiring
55 company shall grant to the state a conservation easement in perpetuity
56 on such lands for the purpose of preserving such land's natural
57 resources and public water supplies. Preservation in perpetuity shall
58 not include permission for the land to be developed for any
59 commercial, residential or industrial uses, nor shall it include
60 permission for recreational purposes requiring intense development,
61 including, but not limited to, golf courses, driving ranges, tennis
62 courts, ballfields, swimming pools and uses by motorized vehicles
63 other than vehicles needed by water companies to carry out their
64 purposes, provided trails or pathways for pedestrians, motorized
65 wheelchairs or nonmotorized vehicles shall not be considered intense
66 development.

67 Sec. 3. Subsection (e) of section 16-43 of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective*
69 *October 1, 2003*):

70 (e) For the purposes of rate making, the department shall use an
71 accounting method for the economic benefits of sales of land by a
72 water company, as defined in section 16-1, that at any time has been in
73 the water company's rate base that [equitably] allocates all of the
74 economic benefits of any such sale [between] to the ratepayers. [and
75 the shareholders of the company. Any such allocation shall be based
76 on the facts of each application for sale and the department may,
77 except as otherwise provided in this subsection, allocate all of the
78 economic benefits of any such sale to either the ratepayers or the
79 shareholders. The department shall allocate the economic benefits of
80 any such sale of water company land which promotes a perpetual
81 public interest in the use of land for open space or recreational
82 purposes, as defined in section 16-43b, substantially in favor of a water
83 company's shareholders if not less than twenty-five per cent of the area

84 of such land in the sale is to be used for open space or recreational
 85 purposes and shall allocate up to one hundred per cent of the benefits
 86 to the shareholders if one hundred per cent of the land in the sale is to
 87 be used for open space or recreational purposes. The department shall
 88 determine how much more than a majority of such benefits shall be
 89 allocated to the shareholders based on the extent to which part of the
 90 land is for open space or recreational purposes. Any such land
 91 designated for open space or recreation shall not be required to be part
 92 of or contiguous to the class III land which is subject to the sale in
 93 order to be considered in the determination of the allocation of benefits
 94 provided such noncontiguous land is (1) consistent with the state or
 95 local plan for open space and recreation in the municipality in which it
 96 is located, or (2) is adjacent to existing protected open space, or (3)
 97 creates a linkage between two or more parcels of protected open space
 98 and further provided only half of the acreage within such
 99 noncontiguous land designated for open space or recreational
 100 purposes shall be counted toward the percentage used in determining
 101 whether the twenty-five per cent minimum requirement in this section
 102 is met. Substitution of noncontiguous land to meet this requirement
 103 shall not be permitted if such land to be sold together with any
 104 contiguous class III land from which the water company has divided
 105 or subdivided it for sale is more than one hundred fifty acres and is
 106 contiguous to land protected as open space, forest land or farmland
 107 designated under sections 12-107c to 12-107e, inclusive, or classified as
 108 water company land, any of which, in combination with the land to be
 109 sold, is more than five hundred acres. The deed for any noncontiguous
 110 land used in any such determination shall clearly indicate that the land
 111 is held for the public interest in perpetuity.]

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>

Statement of Purpose:

To protect watershed lands through conservation easements to the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]